

Message Text

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ACTION EA-09

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC IMMEDIATE 1859

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E.O. 11652: N/A

TAGS: EFIN, RP

SUBJECT: MISTAKEN DEPOSIT OF ONE MILLION DOLLARS BY MELLON
BANK TO PRIVATE PHILIPPINE ACCOUNT

REF: MANILA 10191

1. MR. ROBERT FANSLER, AREA MANAGER IN MANILA FOR THE MELLON BANK OF PITTSBURGH, CALLED AT EMBASSY JUNE 28, JUNE 30 AND JULY 1 TO ENLIST OUR ASSISTANCE IN RECOVERING 999,000 DOLLARS OVERPAYMENT BY MELLON BANK TO PRUDENTIAL BANK AND TRUST IN PASAY CITY, MANILA THROUGH PRUDENTIAL CORRESPONDENT, MANUFACTURERS HANOVER TRUST CO. (MHT) OF NEW YORK. WE ARE DOING OUR BEST TO BE OF ASSISTANCE, AND FANSLER TELLS US HE IS QUITE HAPPY WITH THE EMBASSY'S HEARING AND HELP, ALTHOUGH WE HAVE NOT YET SUCCEEDED IN REACHING CENTRAL BANK GOVERNOR GREGARIO LICAROS TO ASCERTAIN HOW EMBASSY MIGHT ASSIST.

2. BACKGROUND IN BRIEF COMPASS FOLLOWS: ON MAY 27, 1977 FIRST NATIONAL BANK OF MOUNDSVILLE, WEST VIRGINIA (FNB) REQUESTED MELLON BANK TO MAKE A TRANSFER OF ONE THOUSAND DOLLARS FROM MRS. DOLORES VENTOSA TO VICTORIA L. JAVIER VIA PRUDENTIAL BANK IN MANILA. MELLON SELECTED MHT, PRUDENTIAL CORRESPONDENT, TO EFFECT PAYMENT. MELLON BANK ERRONEOUSLY SENT TELEGRAM TO MHT REQUESTING TRANSFER OF ONE MILLION REPEAT
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MILLION DOLLARS. MISTAKE WAS DISCOVERED JUNE 13 WHEN MHT REQUESTED INVESTIGATION OF A DISCREPANCY IN ITS MELLON BANK ACCOUNT IN AMOUNT OF 999,000 DOLLARS. AS FAR AS FANSLER CAN DISCERN, BETWEEN JUNE 6 AND JUNE 14 MRS. JAVIER AND/OR MR. JAVIER WITHDREW IN VARIOUS CASHIER'S CHECKS THE TOTAL PESO PROCEEDS OF ONE MILLION DOLLARS EXCEPT FOR ABOUT 35 THOUSAND DOLLARS (NOW BLOCKED). FANSLER HAS BEEN UNABLE TO RECOVER

FROM JAVIER'S ANY OF OVERPAYMENT ERRONEOUSLY TRANSMITTED TO THEIR ACCOUNT, AND JAVIER CLAIMS TO HAVE DISPOSED OF PRACTICALLY ALL OF THE ONE MILLION DOLLARS DEPOSITED VIA PURCHASE OF LAND IN CALIFORNIA, INVESTMENT IN LOCAL MONEY MARKET, LEGAL FEES, HOUSEHOLD EXPENSES, GAMBLING LOSSES, ETC.

3. THIS MORNING I RECEIVED TELEX (REFTEL) FROM JAMES A. HIGGINS, CHAIRMAN OF THE MELLON BANK, PITTSBURGH, REQUESTING THAT I PERSONALLY INTERVENE WITH PRESIDENT MARCOS TO REINFORCE HIGGINS' REQUEST, BY TELEX DATED JUNE 30 TO MARCOS, THAT HE EXHORT APPROPRIATE OFFICIALS OF HIS GOVERNMENT TO PRESS FOR REDRESS OF OBVIOUS ACT OF WRONGDOING WHICH, IF UNCORRECTED, COULD SERIOUSLY IMPAIR MELLON BANK'S FUTURE DEALINGS IN THE PHILIPPINES.

4. AT TODAY'S MEETING IN EMBASSY WITH FANSLER AND HIS LEGAL COUNSEL, DICK ROMULO (SON OF FOREIGN MINISTER), WE AGREED TO CONTINUE OUR RESPECTIVE AND COOPERATIVE EFFORTS TO ENCOURAGE RESTITUTION OF OVERPAYMENT VIA COGNIZANT AGENCIES OF THE GOVERNMENT OF THE PHILIPPINES, NAMELY CENTRAL BANK AND DEPARTMENT OF FINANCE. I DID NOT REFUSE TO APPROACH PRESIDENT MARCOS, ALTHOUGH EXPRESSING RESERVATIONS ABOUT ADVISABILITY OF SUCH MEASURE AT LEAST BEFORE MELLON BANK AND EMBASSY HAD EXHAUSTED EFFORTS WITH THOSE SAME OFFICIALS. FANSLER AND ROMULO READILY AGREED THAT THEY SHOULD CONTINUE EFFORTS VISA-A-VIS JAVIER'S LEGAL COUNSEL, CENTRAL BANK AND FINANCE LIMITED OFFICIAL USE

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DEPARTMENT, EVEN AS EMBASSY INQUIRED INTO MATTER AT CENTRAL BANK AND FINANCE DEPARTMENT.

5. FANSLER AND ROMULO ARE RELUCTANT TO INSTITUTE CIVIL LEGAL PROCEEDINGS BEFORE THEY HAVE EXHAUSTED AVAILABLE EXTRALEGAL MEANS BECAUSE, AS ROMULO SAID, "ONCE WE ARE IN COURT, EXTRALEGAL PRESSURE CANNOT BE EXERTED". ROMULO SAID MOREOVER THAT LEGAL RECOURSE MAY BE WORTHLESS AS PRACTICAL MATTER BECAUSE WITHDRAWN MONEY ALREADY HIDDEN, AND THERE WOULD BE LITTLE IF ANYTHING IN JAVIER'S NAME TO ATTACH IF COURT JUDGEMENT OBTAINED. FANSLER TOLD US ALSO THAT MELLON HAS BROUGHT PROBLEM TO ATTENTION OF MR. WALLICH AT THE FEDERAL RESERVE BANK IN WASHINGTON WHO IN TURN TELEPHONED BENITO LEGARDA, DEPUTY GOVERNOR OF CENTRAL BANK IN MANILA, TO REGISTER CONCERN. FANSLER ALERTS US ALSO TO POSSIBILITY OF BOARD CHAIRMAN HIGGINS BRINGING MATTER TO THE ATTENTION OF SECRETARY VANCE.

6. EMBASSY WILL OF COURSE CONTINUE ITS EFFORTS AS INDICATED ABOVE ON PRIORITY BASIS TO ASSIST MELLON IN RECOVERING OVERPAYMENT. WOULD APPRECIATE ANY GUIDANCE OR COMMENT DEPARTMENT MAY CARE TO OFFER.

7. I REACHED SECRETARY VIRATA BY TELEPHONE AFTER FOREGOING
DRAFTED. HE SAID HE HAD JUST BEEN INFORMED OF THE MATTER,
AND WOULD LIKE TO BE HELPFUL TO US ALTHOUGH THE MONEY IS
ALREADY DISSIPATED. HE SAID FURTHER THAT UNDER PHILIPPINE
LAW JAIVER HAS NO RIGHT TO THAT MONEY. FINALLY HE ASKED
US WHO THE MELLON LAWYER IS, AND UNDERTOOK TO GET IN
TOUCH WITH DICK ROMULO.
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